

(2) If the permitting authority decides the request is not justified, it shall send the requester a brief written response giving a reason for the decision. Denials of requests for revision, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the permitting authority may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts. The Board may direct the permitting authority to begin revision, revocation and reissuance, or termination proceedings under paragraph (n)(3) of this section. The appeal shall be considered denied if the Board takes no action within 60 days after receiving it. This informal appeal is, under 42 U.S.C. 307, a prerequisite to seeking judicial review of EPA action in denying a request for revision, revocation and reissuance, or termination.

(3) If the permitting authority decides the request is justified and that cause exists to revise, revoke and re-issue or terminate a permit, it shall initiate proceedings to reopen the permit pursuant to § 71.7(f) or § 71.7(g).

[61 FR 34228, July 1, 1996, as amended at 64 FR 8263, Feb. 19, 1999]

§ 71.12 Prohibited acts.

Violations of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part are violations of the Act and are subject to full Federal enforcement authorities available under the Act.

Subpart B—Permits for Early Reductions Sources

§ 71.21 Program overview.

(a) The regulations in this subpart provide for a limited, Federal, title V, permit program to establish alternative emission limitations for early reductions sources that have demonstrated qualifying reductions of hazardous air pollutants under section 112(i)(5) of the Act. A permit issued under this subpart which establishes

such an enforceable alternative emission limitation shall grant all emissions units in the early reductions source a six-year extension from otherwise applicable dates of compliance for standards promulgated under section 112(d) of the Act.

(b) After approval of a State's comprehensive permit program pursuant to title V of the Act, the Administrator may continue to issue specialty permits under this subpart only under the following circumstances:

(1) The early reductions source filed a permit application under this subpart before the State obtained approval of a comprehensive title V permit program but the permit had not been finally issued at the time of State program approval; or

(2) The early reductions source will be required to file an early reductions permit application under § 71.24(b) before a comprehensive permit application is required by the State under the approved program.

(c) When a circumstance described in paragraph (b)(1) or (b)(2) of this section occurs, the primary consideration in the Administrator's decision to issue a specialty permit is the degree of delay anticipated by deferring to the State for permit issuance.

(d) A Permit issued to an early reductions source under this subpart shall have a term not to exceed five years. Such a specialty permit shall be incorporated into a comprehensive title V permit subsequently issued to the facility containing the early reductions source, without reopening or revision of the specialty permit except as provided in § 71.26(e).

(e) Issuance of a specialty permit under this subpart does not relieve a source from an obligation to file a timely and complete comprehensive permit application as required under an approved comprehensive title V permit program.

(f) *Delegation to other permitting authorities.* (1) The Administrator may delegate to another permitting authority the responsibility to implement this permit program. Under such a delegation, the Administrator reserves the right to issue a final permit to

early reductions sources that filed permit applications with the Administrator prior to the permitting authority obtaining delegation.

(2) Under any delegation, the Administrator will require that the permitting authority have enforcement authority substantially equivalent to that specified in § 70.11 of this chapter.

(3) Upon any delegation, administrative appeals of permit decisions issuing pursuant to the delegated program shall continue to be subject to the requirements of § 71.27(l).

§ 71.22 Definitions.

All terms used in this subpart not defined in this section are given the same meaning as in the Act or in subpart D of part 63 of this chapter.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

Actual emissions means the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction. Actual emissions shall be calculated using the early reductions source's actual operating rates, and types of materials processed, stored, or combusted during the selected time period.

Affected States are all States:

(1) Whose air quality may be affected and that are contiguous to the State in which a permit, permit modification or permit renewal is being proposed; or

(2) That are within 50 miles of the permitted source.

Comprehensive title V permit program means a program approved by the Administrator under part 70 of this chapter or a program promulgated for EPA permit issuance under title V that encompasses all applicable requirements of the Clean Air Act.

Draft permit means the version of a permit for which the Administrator offers public participation under § 71.27.

Early reductions source means a source of hazardous air pollutants as defined pursuant to § 63.73 of this chapter.

Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any hazardous air pollutant.

Enforceable commitment means a document drafted pursuant to section

112(i)(5)(B) of the Act and signed by a responsible company official which commits a company to achieving before January 1, 1994 sufficient reductions in hazardous air pollutants from a designated early reductions source to qualify such source for a compliance extension under section 112(i)(5)(A) of the Act.

EPA or Administrator means the Administrator of the EPA or his or her designee.

Final permit means the version of a permit issued by the Administrator under this subpart that has completed all review procedures required by § 71.27.

Hazardous air pollutant means any air pollutant listed pursuant to section 112(b) of the Act.

Permit means any permit covering an existing early reductions source that is issued, amended, or revised pursuant to this subpart.

Permit revision means any permit modification or administrative permit amendment.

Permitting authority means either of the following:

(1) The Administrator, in the case of EPA-implemented programs; or

(2) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under this subpart.

Post-reduction year means the one year period beginning with the date early reductions have to be achieved to qualify for a compliance extension under subpart D of part 63 of this chapter, unless a source has established with the Administrator an earlier one year period as the post-reduction year. For most sources, the post-reduction year would begin with the date of proposal of the first section 112(d) standard applicable to the early reductions source; however, for sources that have made enforceable commitments, it would be the year from January 1, 1994 through December 31, 1994.

Responsible official means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or